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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

In re:

POTENTIAL DYNAMIX, LLC,

Debtor.

TIMOTHY H. SHAFFER, Chapter 11 Trustee,

Plaintiff,

vs.

AMAZON SERVICES LLC,

Defendant.

Case No. 2:11-bk-28944-DPC

CHAPTER 11

Adv. No. 2:13-ap-00799

**TRUSTEE'S SUPPLEMENTAL
CONTROVERTING STATEMENT**

DATE: February 11, 2021
TIME: 1:00 pm
Location: 230 North First Avenue
Phoenix, Arizona
Courtroom 603, 6th Floor
(Zoom Remote Video)

Timothy H. Shaffer, Trustee, submits this Supplemental Controverting Statement in response to the Second Declaration of Eric J. Weiss in Support of Amazon Services LLC's Motion for Partial Summary Judgment [DE 323], which was submitted with Amazon's Reply in Support of Amazon Services LLC's Motion for Partial Summary Judgment [DE 322].

1 Mr. Weiss' declaration attests to the fees "Debtor paid to Amazon . . . for the
2 Debtor's participation in the Fulfillment by Amazon program in the six months prior to the
3 Trustee's Complaint." [DE 323, at ¶2]. Mr. Weiss declared that "[t]he 'M15 data' that
4 Amazon produced in this action and the 'settlement reports' that the Trustee produced in
5 this action show that the Debtor paid to Amazon . . . fees". *Id.*

6 Amazon's designated representative to testify on its behalf, Tasha Bachand,
7 however, testified that there was nothing in the M15 data that indicates the amount of fees
8 paid by the Debtor to Amazon. Excerpt from Amazon Services LLC 30(b)(6) Deposition of
9 Tasha Bachand filed under seal as Exhibit A.

10 Counsel for Trustee has notified Mr. Weiss that his declaration was in error as to
11 what the M15 data reflects, but Mr. Weiss has not withdrawn or modified his declaration.
12 Therefore, the Trustee submits this controverting certificate.

13
14 DATED February 9, 2021.

15 GALLAGHER & KENNEDY, P.A.

16
17 By: Dale C. Schian

18 Mark C. Dangerfield

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2021, I electronically transmitted the attached document to the following parties:

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8446115v2/29611-0001

EXHIBIT A

FILED UNDER SEAL